

REMARKS

This application has been reviewed in light of the Office Action dated August 9, 2004. Claims 20 and 21 are pending. A Terminal Disclaimer regarding the subject matter of claims 20 and 21 is being filed concurrently herewith. Please reconsider the above-referenced application in light of the following comments and Terminal Disclaimer.

The Abstract of the invention has been editorially revised to fully comply with 37 C.F.R. § 1.72 and M.P.E.P. § 608.01(b). Specifically, the Abstract has been amended to be less than 150 words.

Portions of the Information Disclosure Statement ("IDS") filed on March 12, 2004 stand objected to for failing to comply with the provisions of 37 C.F.R. §§ 1.97 and 1.98, and M.P.E.P. § 609. The Examiner states that legible copies of each foreign patent was unavailable and thus, the foreign patent information was not considered as to the merits.

Applicants respectfully submit, however, that legible copies of each foreign patent did not need to be submitted with the March 12, 2004 IDS. Those foreign documents listed in the March 12, 2004 IDS form PTO/SB/08, were not supplied because they were previously cited by or submitted to the Office in prior U.S. Application No.: 10/196,577, filed July 17, 2002 (Notice of Allowance dated December 11, 2003), which was a continuation-in-part of Application Serial No. 10/069,793, filed April 3, 2002 (now abandoned), and relied upon in the above-referenced application for an earlier filing date under 35 U.S.C. § 120.

37 C.F.R. § 1.98 (d) states that references, as specified in paragraph (a) of § 1.98, do not need to be supplied if “[t]he earlier application is properly identified in the information disclosure statement and is relied upon for an earlier effective filing date under 35 U.S.C. § 120.” The March 12, 2004 IDS properly identified an earlier application from which the above-referenced application claimed priority to under 35 U.S.C. § 120. Since the March 12, 2004 IDS was properly submitted, legible copies of the foreign references listed should not need to be submitted. Another form PTO/SB/08 accompanies the Amendment in Response to Non-Final Office Action and Terminal Disclaimer, listing the foreign references for the Examiner’s convenience. Applicants respectfully request that the form PTO/SB/08 be initialed and returned.

Claims 20 and 21 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 12 of copending U.S. Patent Application No.: 10/196,577. In response, a terminal disclaimer is being filed concurrently herewith. Accordingly, the provisional obviousness-type double patenting rejection should be withdrawn.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

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Respectfully submitted,

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